

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STRIDER ROGNIRHAR,)	4:05CV3130
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
KURT KINLUND, et al.,)	
)	
Defendants.)	

This matter is before the court on the court's June 15, 2007 order to show cause. (Filing No. 72.) In that order, this court ordered Plaintiff to show cause why this action should not be dismissed as moot. (*Id.*) After the court provided Plaintiff substantial additional time in which to respond, Plaintiff filed his response to the order to show cause on October 9, 2007. (Filing No. 83.)

In its June 15, 2007 order, the court denied Plaintiff's request to amend his complaint a second time.¹ (Filing No. 72.) Summarized, the court determined that Plaintiff's proposed second amended complaint sought to raise new claims against certain Defendants and sought "damages against defendants who are immune from such relief" and "injunctive relief beyond the power of this court." (*Id.* at CM/ECF p. 3.) The court then required Plaintiff to show cause why this matter should not be dismissed as moot because Plaintiff had been transferred to California.

For his response, Plaintiff addressed the court's denial of the second amended complaint rather than mootness issues. However, the court declines to reconsider its denial of Plaintiff's motion for leave to file a second amended complaint. Because Plaintiff has failed to show that his amended complaint (filing no. 10) is not moot due

¹Plaintiff's first amended complaint (filing no. 10) was filed prior to service on Defendants and no leave to file was necessary. Fed. R. Civ. Pro. 15(a).

to his transfer to California, that complaint must be dismissed. Further, Plaintiff seeks to “withdraw[] his present complaint” in the event that the court declines to reconsider its decision regarding the filing of a second amended complaint. The court therefore dismisses Plaintiff’s amended complaint for this separate reason and in accordance with Plaintiff’s request.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s amended complaint is dismissed without prejudice.
2. The Clerk of the court is directed to send two separate copies of this memorandum and order and the accompanying judgment to Plaintiff. One copy shall be sent to Strider Rognirhar at Plaintiff’s last known address and one copy shall be sent to Plaintiff’s alias, Jonathan Picollo, at Plaintiff’s last known address.
3. A separate judgment will be entered in accordance with this memorandum and order.

December 5, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge